

To: Best-Wong, Benita[Best-Wong.Benita@epa.gov]
Cc: Campbell, Ann[Campbell.Ann@epa.gov]
From: Ruf, Christine
Sent: Thur 3/30/2017 8:30:23 PM
Subject: use this email revised Materials: Follow up to Mike's General with Sarah
[FL and WA Petition Issue Paper 3 12 17.docx](#)
[Info Dental Amalgam Pretreatment Standard Rule 3 30 17.docx](#)
[NRDC NOI re dental amalgam mandatory duty 2-1-2017.pdf](#)
[Lead and Copper Rule Revisions White Paper 10.26.16.pdf](#)
[Perchlorate info and CD summaryv2 March 30 2017.docx](#)

Sorry, forgot to add the perchlorate info, here are all materials.

Hi Benita, as we discussed, here are the documents to forward to Sarah per the emails of today. I merged the perchlorate one pager and legal info into one document. I put the NRDC bullets in the email into a word file. The Lead and copper rule revisions white paper is also attached. I think that's all that was requested. Let me know if you need any other information. Christine

1. Florida and Washington Petition issues (word file)
2. Info on NRDC NOI dental amalgam (word file) and NRDC NOI (pdf file)
3. Perchlorate one pager and legal info (word)
4. Lead and Copper Rule Revisions White Paper, Oct. 16, 2016 (pdf file)

From: Best-Wong, Benita
Sent: Thursday, March 30, 2017 10:30 AM
To: Ruf, Christine <Ruf.Christine@epa.gov>
Subject: RE: Follow up to Mike's General with Sarah

Hi Christine – I told Sarah we would try to package all of the background info she requested into one email. We can work together to do that.

Regards,

Benita

Benita Best-Wong

Acting Deputy Assistant Administrator

Office of Water

US EPA

1200 Pennsylvania Avenue, NW

Washington, DC 20460

202-566-1159

From: Ruf, Christine

Sent: Thursday, March 30, 2017 9:44 AM

To: Wood, Robert <Wood.Robert@epa.gov>; Campbell, Ann <Campbell.Ann@epa.gov>

Cc: Best-Wong, Benita <Best-Wong.Benita@epa.gov>; Scozzafava, MichaelE <Scozzafava.MichaelE@epa.gov>; Hisel-McCoy, Sara <Hisel-McCoy.Sara@epa.gov>; Buffo, Corey <Buffo.Corey@epa.gov>; Southerland, Elizabeth <Southerland.Elizabeth@epa.gov>; Darman, Leslie <Darman.Leslie@epa.gov>; Matuszko, Jan <Matuszko.Jan@epa.gov>; Penman, Crystal <Penman.Crystal@epa.gov>

Subject: RE: Follow up to Mike's General with Sarah

Thanks will coordinate getting this to her.

From: Wood, Robert

Sent: Thursday, March 30, 2017 9:36 AM

To: Campbell, Ann <Campbell.Ann@epa.gov>; Ruf, Christine <Ruf.Christine@epa.gov>

Cc: Best-Wong, Benita <Best-Wong.Benita@epa.gov>; Scozzafava, MichaelE <Scozzafava.MichaelE@epa.gov>; Hisel-Mccoy, Sara <Hisel-McCoy.Sara@epa.gov>; Buffo, Corey <Buffo.Corey@epa.gov>; Southerland, Elizabeth <Southerland.Elizabeth@epa.gov>; Darman, Leslie <Darman.Leslie@epa.gov>; Matuszko, Jan <Matuszko.Jan@epa.gov>
Subject: RE: Follow up to Mike's General with Sarah

Ann and Christine,

Sarah requested additional information on the NRDC action on the Dental Amalgam Rule. Below are bullet points with dates on the NRDC action and a few bullets on the rule itself. Also attached is the NRDC NOI. Please let us know if you or Sarah need any other information. Thanks.

Rob

- Administrator McCarthy signed the Dental Amalgam Pretreatment Standard Rule on December 15, 2016; it was scheduled to be published in the Federal Register on January 24, 2017.
- Per the Priebus memo dated January 20, 2017, EPA withdrew the rule from the Office of the Federal Register.
- The Natural Resources Defense Council (NRDC) filed a complaint on February 1, 2017 regarding the withdrawal of the rule from the OFR prior to publication. The complaint alleges that the rule had become final once the OFR made it available for public inspection, and that withdrawing it was a violation of the Administrative Procedure Act.
- For relief, the plaintiffs ask the Court to declare that EPA's action violates the Administrative Procedure Act (APA), vacate the withdrawal of the rule, award attorneys' fees and provide any other relief that justice requires.
- Also on February 1, NRDC filed a 60-day notice of intent to sue EPA on the dental amalgam rule, arguing that by withdrawing the rule from the OFR, EPA is in violation Section 307(b)(1) of the Clean Water Act requiring the pretreatment standards to be finalized within ninety days of proposal.
- Under Section 505(b)(2) of the Clean Water Act, potential litigants are required to send EPA a notice of intent to sue at least sixty days prior to filing a lawsuit for failure to comply with a mandatory duty under the Act.

- Section 307(b)(1) of the Clean Water Act provides that EPA “shall promulgate” pretreatment standards “not later than ninety days after” publication of proposed pretreatment standards for pollutants that are determined to not be susceptible to treatment or which would interfere with the operation of a treatment works.
- In the notice of intent to sue, NRDC also reiterates the arguments made in its complaint that the rule became final no later than the date it was filed by the Office of Federal Register (OFR) for public inspection. NRDC argues that if EPA properly withdrew the rule from publication in the Federal Register, then no final rule is in effect and EPA is in violation of the non-discretionary duty to finalize the rule within ninety days of the proposal, which was published on Oct. 22, 2014.
- NRDC also reiterates its argument that because of the statutory deadline in CWA 307(b)(1), EPA was not required under the Priebus memo to withdraw the rule from the OFR.
- As per EPA regulations, NRDC’s sixty-day notice commenced on the date it was mailed (Feb. 1, 2017) and therefore, NRDC may file suit in U.S. district court as soon as Monday, April 3, 2017.
- Attached, for your reference, is a copy of the notice from NRDC of its intent to sue EPA for failing to comply with a mandatory duty in Section 307(b)(1) of the Clean Water Act to finalize the Effluent Limitations Guidelines and Standards for the Dental Category.

Background on the Rule

- A 2005 study funded by the American Dental Association (ADA) estimated that dental offices are the largest source of mercury entering Publically Owned Treatment Works. Once discharged to the POTW, mercury from waste amalgam can make its way into the environment from the POTW through the incineration, landfilling, or land application of sludge or through surface water discharge.
- The final rule would set a uniform national standard that ensures efficient mercury capture at dental offices across the U.S when it is in a concentrated and easy to manage form before it becomes difficult and costly to remove. We estimate total annual reductions in mercury and other metals in dental amalgam to POTWs of at least 20,400 pounds per year, about half of which is mercury.
- This rule has broad support from stakeholders, including the American Dental Association, dental amalgam separator manufacturers and servicers, and environmental groups. In addition, the streamlining of the administrative, reporting and recordkeeping requirements and the flexibility for Pretreatment Control Authorities to determine the best inspection and compliance approaches for themselves, were directly responsive to comments received from the municipal utility community, including the National Association of Clean Water Agencies (NACWA), during public comment. NACWA issued a statement of support for the final rule in December 2016.

Robert K. Wood, Director

Engineering and Analysis Division

U.S. EPA Office of Water

202-566-1822

From: Southerland, Elizabeth

Sent: Thursday, March 30, 2017 6:59 AM

To: Campbell, Ann <Campbell.Ann@epa.gov>

Cc: Best-Wong, Benita <Best-Wong.Benita@epa.gov>; Ruf, Christine <Ruf.Christine@epa.gov>; Wood, Robert <Wood.Robert@epa.gov>; Scozzafava, MichaelE <Scozzafava.MichaelE@epa.gov>; Hisel-Mccoy, Sara <Hisel-McCoy.Sara@epa.gov>; Buffo, Corey <Buffo.Corey@epa.gov>

Subject: Re: Follow up to Mike's General with Sarah

We will provide that info as soon as we can.

Sent from my iPhone

On Mar 30, 2017, at 12:11 AM, Campbell, Ann <Campbell.Ann@epa.gov> wrote:

Benita. Attached is the paper OST provided previously on this issue and from which I drew the TPs for the general with Sarah.

From: Best-Wong, Benita

Sent: Wednesday, March 29, 2017 7:09:15 PM

To: Southerland, Elizabeth

Cc: Campbell, Ann; Ruf, Christine

Subject: Follow up to Mike's General with Sarah

Betsy,

In Mike's General today with Sarah, we discussed the need to respond to the Washington and Florida petitions to avoid litigation alleging an unreasonable Agency delay in responding to those positions. Do you have fact sheets on these two petitions that we can share with Sarah?

A second item Sarah requested additional information on is the NRDC NOI on Dental Amalgam. Sarah asked if NRDC has initiated a legal action against us. Please provide the relevant details on the NOI including dates.

Thanks,

Benita

Sent from my iPhone

<FL and WA Petition Issue Paper_3 12 17.docx>